



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JD
F. #2020R01139

*271 Cadman Plaza East
Brooklyn, New York 11201*

May 12, 2022

By ECF and Courtesy Copy by Interoffice Mail

Hon. Rachel P. Kovner
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, N.Y. 11201

Re: United States v. Lakeame Foy
Crim. Dkt. No. 20-565 (RPK)

Dear Judge Kovner:

The government respectfully writes regarding sentencing in this matter, presently scheduled for May 19, 2022.

The defendant entered a guilty plea before Your Honor on October 28, 2021 to the sole count of the Indictment, which charged a violation of Title 18, United States Code, Section 922(g). He admitted to being a felon in possession of ammunition while knowing that he was a prohibited person, pursuant to that statute. He did so pursuant to a written agreement with the government (Government Exhibit 1).

At the time of plea, the parties estimated the advisory guidelines as written in the agreement:

Base Offense Level (§ 2K2.1(a)[2]) 24

Total: 24

If the defendant clearly demonstrates acceptance of responsibility, through allocution and subsequent conduct prior to the imposition of sentence, a two-level reduction will be warranted, pursuant to U.S.S.G. § 3E1.1(a), resulting in an adjusted offense level of 22 and a range of imprisonment of 46-57 months, assuming that the defendant falls within Criminal

History Category II. Furthermore, since the defendant timely accepted responsibility, an additional one-level reduction will be warranted for the Indictment count, pursuant to U.S.S.G. § 3E1.1(b), resulting in an adjusted offense level of 21. This level carries a range of imprisonment of 41-51 months, assuming that the defendant falls within Criminal History Category II. The defendant agreed to not appeal or otherwise challenge his conviction or sentence in the event the Court imposes a sentence of 57 months' imprisonment or below.

On January 26, 2022, the Probation Department issued the Pre-Sentence Investigation Report ("PSR"). In the PSR, the Probation Department estimated the Base Offense Level as 20 and the defendant's criminal history category as level II. However, the PSR added an additional 4 points, pursuant to (§ 2K2.1(b)(6)(B)) on the grounds that the instant offense was committed in conjunction with another offense, namely Reckless Endangerment in the First Degree.

This led the Probation Department to conclude that the adjusted offense level is properly calculated at 21, which yields an advisory Guidelines sentence of 41-51 months, similar to the calculation in the parties' written plea agreement.

Despite the defendant's obviously desperate upbringing, the offense conduct charged in the count of conviction is serious, and in fact leads to the very societal ills for which he claims to deserve leniency. The defendant used a loaded firearm to exact some ill-advised form of revenge on a romantic rival in a crowded residential area of Brooklyn. The 9mm handgun defendant possessed and fired was illegal in general, and specifically due to his status as a prohibited person for multiple felony convictions. The firearm, while never recovered by law enforcement, was clearly in his possession on the date in question, as depicted in the attached photograph. In addition, spent ammunition recovered by law

enforcement corroborate the reports of witnesses and the “Shot Spotter” activation at the location that the defendant fired the weapon.



The government therefore seeks a sentence which is appropriately serious, but not disproportionately so, for the defendant's knowing and intentional possession of prohibited ammunition.

Respectfully submitted,

BREON PEACE
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